

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:17-CV-00172-GCM**

JACKSON NATIONAL LIFE INSURANCE)
COMPANY,)
)
Plaintiff in Interpleader,)
)
v.)
)
MICHAEL D. PRESLEY,)
HOLLY S. PRESLEY,)
)
)
Defendants in Interpleader.)
)

ORDER

THIS MATTER is before the Court upon Defendant Holly Presley's Motion to Strike Answer and Motion for Entry of Default. (Doc. No. 12). Defendant Michael Presley has not responded to this Motion.

Defendant Holly Presley seeks to strike the Answer of Defendant Michael Presley because Michael Presley responded to the Complaint in Interpleader 41 days late and has not shown any excuse of good cause for this delay. The Court provided Michael Presley, who is proceeding *pro se*, with a *Roseboro* Notice on December 11, 2017, advising him of his obligation to respond to the Motion. Specifically, the Court warned that "Failure to file a timely response may lead to [his] answer being stricken and/or default being entered against him in this matter." In spite of this Motion being filed over a month ago, Michael Presley has not responded or sought an extension of time.

If the time to file a response has already expired, a court may allow the submission of a late filing following a motion only on the showing of "excusable neglect." Fed. R. Civ. P. 6(b). The most important factor in assessing whether a late filing is due to excusable neglect is the

reason offered for the delay. *Thompson v. E.I. DuPont Nemours & Co.*, 76 F.3d 530, 534 (4th Cir. 1996). Defendant Michael Presley did not offer any reason for his delay at the time he filed his answer, and he has not responded to the current Motion offering any rationale explaining why his Answer was filed 41 days late. Accordingly, the Court must grant the Motion to Strike.

Because Defendant Michael Presley has not filed a timely answer in this matter, he has forfeited his claim of entitlement and default must be entered against him pursuant to Rule 55(a).

IT IS THEREFORE ORDERED that Defendant Holly Presley's Motion to Strike and for Entry of Default (Doc. No. 12) is **GRANTED**. Defendant Michael Presley's untimely answer (Doc. No. 11) is hereby stricken. The Clerk of Court is directed to enter default against Defendant Michael Presley.

SO ORDERED.

Signed: January 23, 2018



Graham C. Mullen
United States District Judge

